

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 14-20780

Hon. Matthew F. Leitman

v.

CURTIS SCOTT,

Defendant.

**ORDER FOR SUPPLEMENTAL BRIEFING REGARDING
DEFENDANT’S MOTION FOR A NEW TRIAL (ECF #144)**

Currently pending is Curtis Scott’s Motion for New Trial (the “Motion”). (*See* ECF #144.) Scott’s appointed counsel filed the Motion on February 17, 2017. (*See id.*) The Government responded to the Motion on March 1, 2017. (*See* ECF #148.) Scott then filed his own pro se addendum to the Motion on March 22, 2017. (*See* ECF #162.) The Government then responded to the pro se addendum on May 2, 2017. (*See* ECF #167.)

In its responses, the Government contends that the Motion and the pro se addendum were untimely under Federal Rule of Criminal Procedure 33(b)(2) because they were not filed within 14 days after the verdict. (*See* ECF #148 at Pg. ID 2515-22.) However, this Court has the authority to extend the 14-day deadline in Rule 33(b)(2) if Scott’s alleged failure to comply with the deadline was because of “excusable neglect.” *See U.S. v. Munoz*, 605 F.3d 359, 367-68 (6th Cir. 2010)

(citing Fed. R. Crim. P. 45(b)); *see also United States v. Arny*, 831 F.3d 725, 731 n.3 (6th Cir. 2016).

Neither party has addressed whether the Court should extend the deadline and excuse Scott's allegedly late filing of the Motion and pro se addendum because the purported tardy filing was the result of excusable neglect. The Court **HEREBY ORDERS** each party to file a supplemental brief that addresses the following issue:

Whether Scott's alleged failure to comply with the deadline in Federal Rule of Criminal Procedure 33(b)(2) was the result of excusable neglect. In their supplemental briefs, the parties shall apply the factors stated by the United States Court of Appeals for the Sixth Circuit in *U.S. v. Munoz*, 605 F.3d at 368-74.

The Court attaches a copy of the *Munoz* decision to this Order to ensure that Scott has immediate access to the decision and can begin working on his supplemental brief right away. (*See Exhibit A.*) Both Scott and the Government shall file their supplemental briefs by no later than May 26, 2017.

IT IS SO ORDERED.

Dated: May 4, 2017

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 4, 2017, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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